

Applicant: Bernalillo County
Zoning, Building, Planning &
Environmental Health Department
111 Union Station St. SE
Albuquerque, NM 87111

Property Owner: Melcor Lujan Jr.

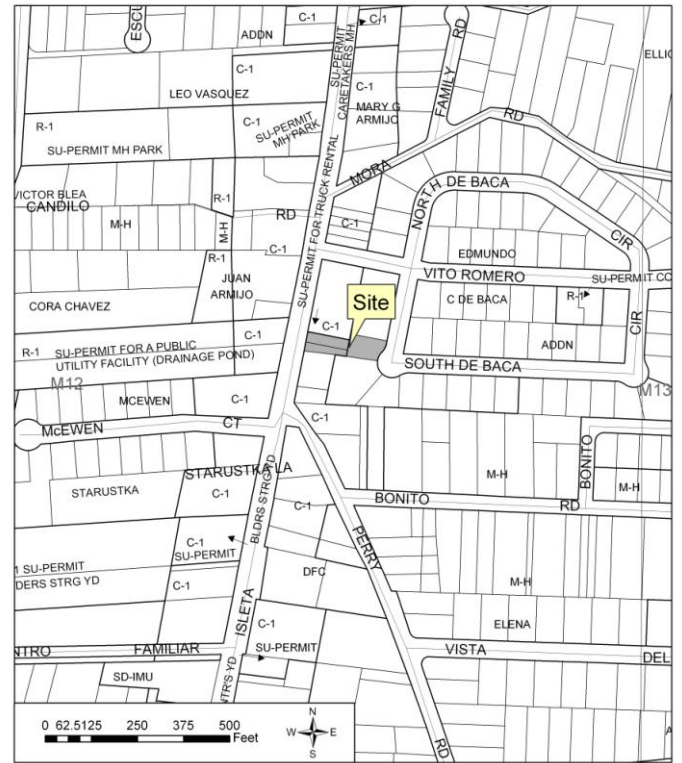
Location: 1924 De Baca South Circle
SW and 1926 Isleta
Boulevard SW

Property Size: .26 acre +/-

Existing SUP: Special Use Permit for
Specific Use for a Bakery,
Storage, and Single Family
Dwelling

Zoning: R-1 and C-1

Recommendation: Cancellation



Summary: The Zoning, Building, Planning & Environmental Health Department proposes cancellation of an existing Special Use Permit for a Specific Use for a Bakery, Storage, and Single Family Dwelling. Despite repeated contact from the Zoning Enforcement Office, the property owner has not responded. The property owner has not initiated the process to correct the violation of the Special Use Permit.

Staff Contact: Enrico Gradi, Program Planner

Attachments:

1. Notice of Special Use Permit (August 31, 1983)
2. Approved site plan (August 30, 1983)
3. Notice of violation (October 19, 2007)
4. Notice of violation (November 20, 2007)
5. Notice of intent to cancel SUP (December 3, 2009)
6. Site photographs, aerial photograph, zone atlas page.

CSU-83-28 Zoning, Building, Planning & Environmental Health Department requests cancellation of a Special Use Permit for Specific Use for a Bakery, Storage, and Single Family Dwelling on Lot 1, 2 & 14, Block 4, Edmundo C De Baca Addition, located at 1924 De Baca South Circle SW and 1926 Isleta Boulevard SW, zoned R-1 & C-1, and containing approximately .26 acres. (M-12)

AREA CHARACTERISTICS & ZONING HISTORY
Surrounding Zoning & Land Uses

	Zoning	Land use
Site	R-1 and C-1 Special Use Permit for Specific Use for a Bakery, Storage, and Single Family Dwelling	Restaurant, Storage, and Single Family Dwelling
North	C-1	Service Station/Trailer Rental
South	C-1	Commercial Business
East	R-1	Single Family Dwellings
West	C-1	Single Family Dwelling

BACKGROUND

Special Use Permit History & Overview

On August 16, 1983 the Board of County Commissioners authorized a Special Use Permit for a Bakery, Storage, and a Single Family Dwelling for property located at 1924 De Baca South Circle SW and 1926 Isleta Boulevard SW on Lot 1, 2 and 14, Block 4, Edmundo C. De Baca Addition. The Special Use Permit was approved for the life of the use. The Special Use Permit is made up of three lots, Lots 1 and 2 front Isleta Boulevard and Lot 14 fronts South De Baca Circle. The two lots that front Isleta Boulevard are zoned C-1, which allows the current restaurant use. The rear lot is zoned R-1, which allows the existing single family dwelling. This site contains a restaurant and a large storage building in the rear up to the property line that separates the C-1 zoned lot and the R-1 zoned lot.

Subject Site & Surrounding Properties

The property is situated on east side of Isleta Boulevard and the west side of South De Baca Circle. The properties along De Baca Circle are all zoned R-1 and contain single family dwellings. The properties adjacent to Lots 1 and 2 are zoned C-1 and contain commercial development.

APPLICABLE REGULATIONS & POLICIES

Comprehensive Zoning Ordinance of Bernalillo County

Section 18. Special Use Permit Regulations.

H. Violation of the approved development plan or any condition imposed by the Board of County Commissioners in approving an application filed under this section shall constitute a violation of this ordinance and shall be subject the permit to cancellation pursuant to this section.

1. Procedures for Cancellation:

- (a) The Zoning Administrator or his designee has the duty of routinely inspecting the Special Use Permit to insure compliance with the approved development plan and conditions imposed by the Board of County Commissioners.
- (b) If the Zoning Administrator or his designee shall find that any of the conditions of the approved development plan or the conditions imposed by the Board of County Commissioners have not been complied with, they shall notify in writing, the owner, tenant, agent, occupant, or person in charge of the premises, indicating the nature of the violation and ordering its correction within 30 days.
- (c) In an event that a violation of the approved development plan or conditions imposed by the Board of County Commissioners continues, the Zoning Administrator or his designee may institute the appropriate action to cancel the Special Use Permit pursuant to this section of proceed against the owner, tenant, agent, occupant, or person in charge of the premises, pursuant to the Penalty section of this Ordinance.
- (d) Any violation o the approved development plan or conditions imposed by the Board of County Commissioners that continues for a period of 30 days after notification by certified mail receipt return requested shall subject the Special Use Permit to cancellation pursuant to the process outlined under Section 18.E.,
- (e) Subsections 1, 2, and 3. In the event that the Special Use Permit is cancelled, all references to said Special Use Permit shall be removed from the official zoned maps by the County Planning Department.

2. In the event a use authorized by a Special Use Permit is not established within 12 months of the date of approval or is discontinued for a period of 12 months, the County Planning Department shall send notification by certified mail return receipt requested requiring the property owner, tenant, agent, occupant, or person in charge of the premises to state in writing within 30 days his or her intention to establish or continue said permit. If the property owner, tenant, agent, occupant, or person in charge of the premises does not declare in writing his or her intention to establish or continue said permit, then authorization or approval may be cancelled and relevant documents, if any, shall be removed from the official zone maps by the County Planning Department.

ANALYSIS

This site is located in two distance areas. The two lots that face Isleta are located on a commercial corridor and the rear residential lot is located in an area of residential uses.

This issue is a result of continued violations of the Special Use Permit (CZ-83-28) and the corresponding site development plan approved for the permit. Specifically, the portion of this site that was authorized for a bakery is now being used as a restaurant. In order to change the use from the bakery to restaurant the applicant would have to amend the existing Special Use Permit through the public hearing process.

The Bernalillo County Planning Department has notified the property owner, via registered letter, of noncompliance with the provisions of the Special Use Permit on December 3, 2009, as described in Section 18.H. of the Comprehensive Zoning Ordinance of Bernalillo County. In addition, letters have been sent to the applicant on November 20, 2007 and October 19, 2007 informing of the procedures required to address this issue. To date we have not heard from the property.

It appears that cancelation of the existing Special Use Permit would allow the current uses to continue to operate in compliance with the zoning ordinance. However, at least two variances would be needed to allow the continued use of the storage buildings that are positioned on the lot line that separates lots 1, 2 and lot 14 (Attachment 6).

Proposed Findings for Cancellation

1. This is a request for the cancellation of a Special Use Permit for Specific Use for a Bakery, Storage, and Single Family Dwelling on Lot 1, 2 & 14, Block 4, Edmundo C De Baca Addition, located at 1924 De Baca South Circle SW and 1926 Isleta Boulevard SW, zoned R-1 & C-1, and containing approximately .26 acres.
2. This matter is a result of continued violations of the Special Use Permit (CZ-83-28) and the corresponding site development plan approved for the permit. Specifically, the portion of this site that was authorized for a bakery is now being used as a restaurant.
3. The Bernalillo County Planning Department notified the property owner of noncompliance with the provisions of the Special Use Permit on December 3, 2009, as described in Section 18.H. of the Comprehensive Zoning Ordinance of Bernalillo County. The property owner failed to respond to each letter.
4. This decision removes the Special Use Permit (CZ-83-28) from the property, and reverts the zoning on the site back to the underlying zoning designation of C-1 Community Commercial, which allows a restaurant, and R-1 Single-Family Residential.

RECOMMENDATION:

Cancellation of CZ-83-28.

Enrico Gradi
Program Planner